

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

ANTONIO MENDOZA,

Plaintiff,

v.

Case No. 08-13677

JAN. M. GOLDBERGER, LARRY J. DuRUSSEL,  
BONNIE K. DELLAR, CORRECTIONAL  
MEDICAL SERVICES, INC., GEORGE  
PRAMSTALLER,

HON. AVERN COHN

Defendants.

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**ORDER**  
**ADOPTING MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION**  
**AND**  
**DISMISSING DEFENDANTS LARRY J. DuRUSSEL AND BONNIE K. DELLAR**  
**WITHOUT PREJUDICE FOR LACK OF SERVICE**

I.

This is a prisoner civil rights case under 42 U.S.C. § 1983. Plaintiff Antonio Mendoza, a state inmate proceeding pro se, has sued several defendants claiming that they were deliberately indifferent to his serious medical needs. Plaintiff's claims stem from an infection he contracted following an appendectomy in 2006. The matter was referred to a magistrate judge for all pretrial proceedings. On October 29, 2008, the magistrate judge issued an order to show cause directing plaintiff to show cause within ten days as to why defendants Larry J. DuRussel and Bonnie K. Dellar should not be dismissed under Fed. R. Civ. P. 4(m) for failure to effect service. Plaintiff did not respond to the show cause order. Accordingly, on January 8, 2009, the magistrate judge issued a report and

recommendation (MJRR) that defendants be dismissed without prejudice.<sup>1</sup>

II.

Plaintiff has not objected to the MJRR and the time for filing objections has passed. Accordingly, the findings and conclusions of the magistrate judge are adopted as the findings and conclusions of the Court. Defendants Larry J. DuRussel and Bonnie K. Dellar are DISMISSED WITHOUT PREJUDICE.

SO ORDERED.

s/Avern Cohn  
AVERN COHN  
UNITED STATES DISTRICT JUDGE

Dated: February 4, 2009

I hereby certify that a copy of the foregoing document was mailed to Antonio Mendoza and the attorneys of record on this date, February 4, 2009, by electronic and/or ordinary mail.

s/Julie Owens  
Case Manager, (313) 234-5160

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<sup>1</sup>Defendants Jan M. Goldberger and Correctional Medical Services filed a motion to dismiss on the grounds that plaintiff has failed to exhaust his administrative remedies and has failed to state a claim. Plaintiff did not respond to the motion. On February 3, 2009, the magistrate judge issued a report and recommendation that defendants' motion be granted. The time for filing objections has not yet passed.